

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BIL DARBY FOR AUTHORITY TO)
TRANSFER CONTROL OF E.P.S.S., INCORPORATED) CASE NO. 91-448

O R D E R

William Williams has moved for dismissal of the application of Bil Darby for authority to transfer control of E.P.S.S., Incorporated ("E.P.S.S."). Having reviewed Williams' motion and Darby's response to it, the Commission finds that Bil Darby is not a proper party to make such application and his application should be dismissed.

KRS 278.020(5) provides that no person may acquire control of "any utility furnishing utility service in this state" without first obtaining Commission approval. It further requires that the person seeking such control apply "in writing, verified by oath or affirmation, and be in such form and contain such information as the Commission requires." Williams, therefore, must make the application. He has not. The record, furthermore, does not support the conclusion that Darby is acting on Williams' behalf. Williams' opposition to Darby's application suggests the contrary.

Just as it takes two to tango, it takes two to transfer control of a utility. In this instance, only one person has shown up for the dance. Williams' actions indicate that he does not desire control of E.P.S.S. nor the responsibilities

commensurate with such control. To continue these proceedings, therefore, would serve no useful purpose.

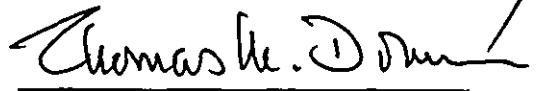
IT IS THEREFORE ORDERED that:

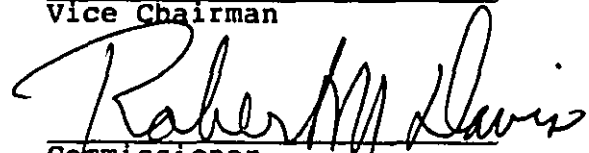
1. Williams' motion to dismiss is granted.
2. Bil Darby's application for authority to transfer control is dismissed without prejudice.

Done at Frankfort, Kentucky, this 9th day of January, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director